# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:13-cv-12661-FDS

RUDY CHERNIAK and MONICA CHERNIAK

Plaintiff, : MDL No. 2419

Master Docket No. 1:13-md-2419-FDS

v. :

Honorable F. Dennis Saylor

UNIFIRST CORPORATION, A/D/B/A : UNICLEAN CLEANROOM :

SERVICES : <u>DEMAND FOR JURY TRIAL</u>

:

Defendant. :

## CORRECTED SHORT FORM COMPLAINT AGAINST UNAFFILIATED DEFENDANTS

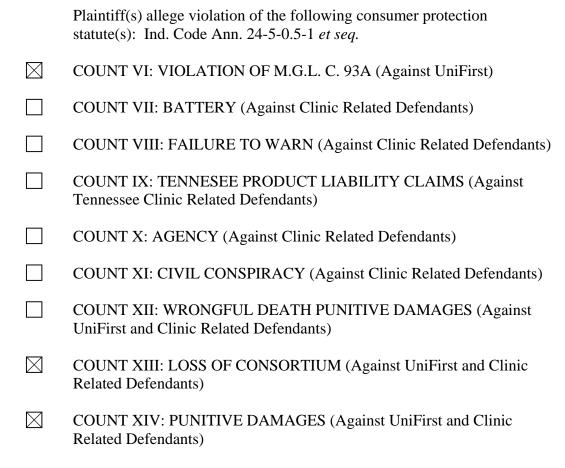
Plaintiffs, Rudy Cherniak and Monica Cherniak, complaining against the Defendant, allege(s) as follows:

#### FIRST COUNT

- 1. Pursuant to MDL Order No. 7, entered in In Re: New England Compounding Pharmacy, Inc. Products Liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submit this Short Form Complaint and Jury Demand against the Defendants, and adopt and incorporate by reference the allegations in the Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.
  - 2. Plaintiff Rudy Cherniak is a resident of the State of Indiana.
  - 3. Plaintiff brings this action:

On behalf of herself/himself.	
As the representative of	, who is a living person

	As the A	dminist	rator, Administrator ad Prosequendum, or other representative of the Estate	
of _	f (hereinafter "Decedent"), who died on			
	4.	Addit	ionally, Monica Cherniak, is the:	
$\boxtimes$	Spouse			
	Child/Chi	ldren		
	Other (Se	et forth)		
of	Rudy Che	rniak, i	s a resident of the State of Indiana, and is hereby named as an additional	
pla	intiff(s), a	nd clain	ns damages.	
	5.	Plaint	iff Rudy Cherniak asserts that he was administered New England	
Co	mpoundin	g Pharn	nacy, Inc. ("NECC") drugs Depo Medrol (methylprednisolone acetate) and	
Cel	lestone (b	etameth	asone) (hereinafter referred to as "NECC drugs"), causing injuries and	
dar	nages.			
	6.	The a	foresaid administration of the NECC drugs occurred on: June 26, 2012, July	
5,	and Augu	ıst 9, 2	012, by Gene W. Grove, M.D., at ASC Surgical Ventures, LLC d/b/a	
0.5	S.M.C. Ou	tpatient	Surgery Center (hereinafter "O.S.M.C."), located in Elkhart, Indiana.	
	7.	Plaint	iffs adopt and incorporate by reference the following Causes of Action	
ass	erted again	nst the I	Defendants in the Master Complaint:	
			COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)	
			COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)	
			COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)	



8. Plaintiffs have sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under M.G.L.C. 93A. See attached demand letter sent on December 18, 2013, pursuant to Massachusetts General Laws, Chapter 93A, § 9. Plaintiffs do not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired:

#### Count VI

- 9. Plaintiff Rudy Cherniak claims to have suffered the following injuries as a result of the administration of NECC's drug: high anxiety.
- 10. Plaintiff Monica Cherniak claims to have suffered the following injuries as a result of the administration of NECC's drug: loss of consortium.

WHEREFORE, Plaintiffs demand Judgment against the Defendants awarding

compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further

relief as the Court deems equitable and just.

Plaintiffs reserve the right to amend this Complaint to add allegations and claims against

individuals or entities currently omitted (in light of the Court's order permitting a Master

Complaint naming defendants affiliated with NECC and currently participating in mediation by

December 20) and to add or amend allegations against Defendants named herein based, in part,

on further discovery.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Respectfully submitted:

PRICE WAICUKAUSKI & RILEY, LLC

/s/ Jamie R. Kendall

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Counsel for Plaintiffs

Date: December 20, 2013

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of December, 2013, I caused a copy of the above Corrected Short Form Complaint Against Unaffiliated Defendants to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

/s/ Jamie R. Kendall
Jamie R. Kendall